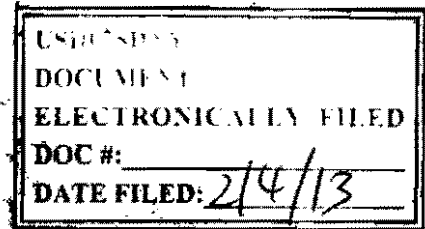


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,

-against-

TAJUAN SIMMONS,

Defendant.

**ORDER DENYING MOTION TO
RECONSIDER**

12 Cr. 416 (AKH)

ALVIN K. HELLERSTEIN, U.S.D.J.:

Following an evidentiary hearing on Defendant's motion to suppress a firearm seized from his person during a stop, I made preliminary findings regarding the reliability and conduct of police and prosecuting officers seeking to justify the stop and search while protecting the identity of a confidential informant whose information gave rise to the stop. I held, preliminarily and subject to review after post-hearing briefing and argument, that the stop, search and arrest were lawful, even while expressing criticism of the testimony and conduct of the police and prosecutors. (I do not criticize the Assistants U.S. Attorney representing the Government at the hearing; they acted appropriately and professionally.)


Since the suppression hearing, Defendant has pleaded guilty to conspiring to illegally possess a firearm, and I accepted his guilty plea on January 29, 2013. The Government now requests that I withdraw my preliminary rulings on the issue of the reliability and conduct of police and prosecuting officers who sought to justify the stop and search. By letters dated November 30, 2012 and January 18, 2013, the Government supports its request. Defendant stated its opposition in letters dated December 21, 2012 and January 30, 2013.

In light of Defendant's guilty plea, I deny the Government's motion as academic. My remarks immediately following the hearing expressed my views at that time, and I see no reason to withdraw them.

The clerk shall file the November 30, December 21, January 18 and January 30 letters.

SO ORDERED.

Dated: February 4, 2013
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge